

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

CLYDE LONG,

Case No. 3:07-cv-340

Plaintiff,

Judge Thomas M. Rose

v.

ROBERT GATES,  
Secretary of Defense,

Defendant.

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**DEFENDANT'S BRIEF IN RESPONSE TO COURT'S ORDER**

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This Court ordered the parties to submit briefs discussing the applicability of *Thompson v. North American Stainless LP*, 2009 WL 1563443 (6th Cir., June 5, 2009). (Doc. 21.) In *Thompson*, the Sixth Circuit noted that “Thompson does not claim that he engaged in any statutorily protected activity, either on his own behalf or on behalf of Miriam Regalado.” (*Id.* at 4.)

In this civil action, Plaintiff Long alleged that he did participate in the investigation of his wife’s sexual harassment claim. He was a witness to the alleged incidents and he gave a statement to the EEO investigators.

Defendant believes that Plaintiff's claims in this case are different enough from the facts of the *Thompson* case so as to distinguish that case from the case at bar.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Brief in Response to Court Order was served on counsel for Plaintiff, David M. Duwell, by Notice of Electronic Filing, this 2nd day of July, 2009.

s/Gregory P. Dunsky  
GREGORY P. DUNSKY  
Assistant United States Attorney